

1 Shelley G. Hurwitz (SBN 217566)  
 2 HOLLAND & KNIGHT LLP  
 3 633 W. Fifth Street, 21<sup>st</sup> Floor  
 4 Los Angeles, CA 90071  
 Telephone: (213) 896-2400  
 Facsimile (213) 896-2450  
 Email: shelley.hurwitz@hklaw.com

5 Beth S. Naylor (*admitted pro hac vice*)  
 6 Douglas R. Dennis (*admitted pro hac vice*)  
 7 FROST BROWN TODD LLC  
 8 2200 PNC Center  
 9 201 East Fifth Street  
 Cincinnati, Ohio 45202  
 Telephone: (513) 651-6727  
 Facsimile: (513) 651-6981  
 Email: ddennis@fbtlaw.com

11 Attorney for Defendants IRWIN INDUSTRIAL TOOL COMPANY, INC.  
 12 and THE HOME DEPOT, INC. and Third-Party Plaintiff BERNZOMATIC

13  
 14 **UNITED STATES DISTRICT COURT**

15 **SOUTHERN DISTRICT OF CALIFORNIA – SAN DIEGO**

16 ANDREW SHALABY, an individual, and SONIA  
 17 DUNN-RUIZ an individual,

18 Plaintiffs,  
 vs.

19 IRWIN INDUSTRIAL TOOL COMPANY, THE  
 20 HOME DEPOT, INC., and DOES 2 through 100,  
 inclusive,

21 Defendants.

22 **BERNZOMATIC,**

23 Third Party Plaintiff,  
 vs.

24 WESTERN INDUSTRIES, INC.,  
 25 WORTHINGTON INDUSTRIES, AND ROES 2  
 through 100, inclusive,

26 Third Party Defendants.

**Case No.: 07-CV-2107 W BLM**

**NOTICE OF MOTION AND  
 MOTION FOR LEAVE TO  
 DESIGNATE EXPERT WITNESS  
 JASON LUSK**

Judge: Hon. Thomas J. Whelan  
 Magistrate Judge: Hon. Barbara Major

**Date: October 2, 2008, 9:00 am  
 Courtroom: A  
 No Appearances By Counsel  
 Required**

Mand. Settlement Conf: October 14, 2008  
 Pretrial Conference: January 12, 2009

**[Filed In Compliance With Briefing  
 Schedule Ordered By Court]**

1 TO ALL PARTIES AND THEIR ATTORNEYS OF RECORD:

2 YOU ARE HEREBY NOTIFIED THAT on October 2, 2008 at 9:00 am, the Court will  
3 consider Defendants Irwin Industrial Tool Company, Inc. and the Home Depot, Inc. and Third-  
4 Party Plaintiff Bernzomatic's (the "Bernzomatic Defendants") motion for leave to designate  
5 Jason Lusk as an expert witness in this matter. Unless the Court directs otherwise in advance, no  
6 personal appearances are required on October 2, 2008.

7 This motion is made on the basis that good cause exists for the grant of leave to designate  
8 Jason Lusk as an expert witness in this matter.

9 This Motion is based on this Notice of Motion, the accompanying Memorandum of  
10 Points and Authorities, the Declaration of Shelley G. Hurwitz, filed herewith, the pleadings,  
11 records and papers filed herein, and upon such other and further oral and documentary evidence  
12 as the Court may consider.

13 Dated: September 12, 2008

HOLLAND & KNIGHT LLP

14  
15 /s Shelley G. Hurwitz  
16 SHELLEY G. HURWITZ  
17 Attorney for Defendants  
IRWIN INDUSTRIAL TOOL COMPANY, INC.  
and THE HOME DEPOT, INC. and Third-Party  
Plaintiff BERNZOMATIC

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**Andrew Shalaby v Newell Rubbermaid, Inc., et al.**  
**United States District Court, Southern District of CA (San Diego)**  
**Case No. 3:07-cv-02107-W-POR**

**PROOF OF SERVICE**

STATE OF CALIFORNIA )  
 ) ss.  
COUNTY OF LOS ANGELES )

I am employed in the County of Los Angeles, State of California. I am over the age of 18 and not a party to the within action. My business address is 633 West Fifth Street, 21<sup>st</sup> Floor, Los Angeles, California 90071.

**On September 12, 2008, I served the document described as:**

**NOTICE OF MOTION AND MOTION FOR LEAVE TO DESIGNATE EXPERT  
WITNESS JASON LUSK**

on the interested parties in this action as follows:

**SEE ATTACHED SERVICE LIST**

X VIA THE ECF FILING SYSTEM .

I declare under penalty of perjury under the laws of the United States that the above is true and correct and that I am employed in the office of a member of the Bar of this Court at whose direction the service was made.

Executed on September 12, 2008, at Los Angeles, California.

/s Shelley Hurwitz  
Shelley G. Hurwitz

**Andrew Shalaby v Newell Rubbermaid, Inc., et al.**  
United States District Court, Southern District of CA (San Diego)  
Case No. 3:07-cv-02107-W-POR

## **SERVICE LIST**

Mark D. Epstein  
Aalborg, Veiluva & Epstein LLP  
200 Pringle Avenue, Suite 410  
Walnut Creek, CA 94596  
(925) 939-9880  
(925) 939-9915 - Fax

Richard A. Ergo  
Cathleen S. Huang  
Bowles & Verna LLP  
2121 North California Boulevard, Suite 875  
Walnut Creek, CA 94596  
(925) 935-3300  
(925) 935-0371 – Fax

Attorneys for Plaintiffs

Attorneys for Worthington Industries

Lowell T. Carruth  
McCormick Barstow LLP  
5 River Park Place East  
P.O. Box 28912  
Fresno, CA 93720-1501  
(559) 433-1300  
(559) 433-2300 – Fax

## Attorneys for Western Industries, Inc.

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